

**REMARKS**

This amendment is responsive to the Office Action dated May 21, 2003. Following the instant Amendment, Claims 1-20 are pending in the present application. Claims 1 and 14 are hereby amended only to clarify the subject matter of the invention and not in a limiting sense. Applicants have specifically addressed each and every one of the Office Actions rejections in the amendments and remarks herein. Thus, Applicants respectfully submit the remaining claims, as amended herewith, are allowable and an early notification of allowance is requested.

This response is being filed within six (6) months from the mailing date of the Office Action and a Petition for an Extension of Time is filed herewith along with the appropriate fee in the accompanying credit card payment form.

**I. Claim Rejections – 35 USC § 102**

The Office Action rejected Claims 1-3 and 14 under 35 USC 102(b) as being anticipated by Japanese Pat. No. 61-35748 to Honpo (“Honpo”). Applicant respectfully traverses the rejection and asserts that Claims 1-3 and 14 are novel and patentable in view of the amendments and remarks set forth herein.

It is well settled that an anticipatory reference must teach each and every one of the limitations of the claim(s) alleged to be anticipated thereby. For purposes of illustration but not limitation, Applicant’s independent Claim 1 has been amended to clarify that the edible first member is not made entirely of chocolate, a limitation which is neither taught nor contemplated by Honpo. In addition, for purposes of illustration but no limitation, independent Claim 14 has been amended to clarify that the first member is attached to the indicia by not using melted chocolate, a limitation that is neither taught nor contemplated by Honpo. Furthermore, Claims 2 and 3 depend from Claim 1 and incorporate the novel and unobvious limitations thereof. As

such, Honpo fails to teach all of the limitations of Applicant's Claims 1-3 and 14.

Contrary to Applicant's invention as claimed, Honpo teaches decorating a chocolate slabs with another chocolate piece using melted chocolate, "A one-point-chocolate for decoration (2) is put on a base chocolate (1)...a melting chocolate (3) having the same material as (1) as applied on the surface of (1) and then (2) is pressed to (3)."

Accordingly, Applicant respectfully asserts that Honpo at the very least fails to provide indicia that are of different substances than the first member, a first member that is not fully comprised of chocolate, or an attaching means that does not use melted chocolate. Therefore, Honpo fails to teach all of the limitations of Applicant's Claims 1-3 and 14. As a result, Applicant respectfully requests the withdrawal of the rejection of Claims 1-3 and 14 under Honpo and the allowance thereof.

## **II. Claim Rejections – 35 USC §103**

The Office Action rejected Claims 4 and 8 under 35 USC 103 as being unpatentable over Honpo in view of Schroeder (US Pat. No. 4,560,562), Newsteder (US Pat. No.4,778,683), and Swiss Colony Christmas Gift Book (1982) (hereinafter "Swiss"). Applicant respectfully traverses the rejection and the combination, modification and interpretation of the references, and asserts that the subject claims are unobvious and allowable.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact, the references are individually complete and functional independently for each limited specific

purpose and fail to suggest any motivation to modify or combine the same.

Hopno teaches a method of attaching a pre-molded chocolate decoration to a pre-molded chocolate bar using melted chocolate. Schroeder teaches a marshmallow sheet being placed onto a cake as decoration. (Schroeder, column 3, lines 13-26) Newsteder teaches using a mold to attach chocolate decorations of varying colors to a slab of chocolate. (Newsteder, column 2, lines 16-28; 32-40; and 43-51) Swiss teaches casting a chocolate bar using a mold and adding a personalization using melted chocolate and handwriting the same onto the chocolate slab. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification as proposed by the Office and, in fact, the Office fails to cite any such motivation within any of the references.

In addition, the Office Action also appreciates the advantages of Applicant's invention and is using hindsight and Applicant's in order to modify and combine the references in an attempt to render Applicant's claims obvious. Applicant respectfully asserts that if the invention were in fact obvious, because of the advantages it provides in attaching different display elements to various base confectionary, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in numerous references to achieve the claimed invention. Applicant respectfully submits that the fact that numerous references are necessary to

be modified to purportedly render Applicant's invention obvious, militates in favor of Applicant because it proves that Applicant's invention produces new and unexpected results and hence is unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding Claim 4, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 4 for at least the aforementioned reasons.

Regarding Claim 8, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 8 for at least the aforementioned reasons.

The Office Action rejected Claims 5-7 under 35 USC 103 as being unpatentable over Honpo in view of Applicant's admission of the prior art. Applicant respectfully traverses the rejection, the modification and interpretation of the reference, and what Applicant admits is prior

art, and asserts that the subject claims are unobvious and allowable.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. Hopno fails to suggest any reason to modify the reference as proposed. In fact, the reference cannot be modified as proposed by the Office because Hopno mandates that the base and decoration be made of chocolate such that melted chocolate can serve to attach the two components together. Accordingly, from reviewing the cited reference, it is clear that the reference provides no motivation for the modification as proposed by the Office and, in fact, the Office fails to cite any such motivation within the reference. To the contrary, the Office admits that the use of a chocolate base and a chocolate decoration is the only thing that Hopno teaches

In addition, the Office Action also appreciates the advantages of Applicant's invention and is using hindsight and Applicant's in order to modify the reference in an attempt to render Applicant's claims obvious. Applicant respectfully asserts that if the invention were in fact obvious, because of the advantages it provides in attaching different display elements to different base confectionary, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, Applicant's limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the reference or the modification thereof to render the same obvious.

Regarding Claim 5, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the proposed modification thereof also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo mandates the use of chocolate as the base and the decoration such that they can be combined by melted chocolate, and thus does not provide the motivation or teaching for using an outer shell with filling as a base as claimed by Applicant. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 5 for at least the aforementioned reasons.

Regarding Claim 6, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the proposed modification thereof also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo mandates the use of chocolate as the base and the decoration such that they can be combined by melted chocolate, and thus does not provide the motivation or teaching for using an outer shell of hard candy with filling as a base as claimed by Applicant. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 6 for at least the aforementioned reasons.

Regarding Claim 7, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the proposed modification thereof also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo mandates the use of chocolate as the base and the

decoration such that they can be combined by melted chocolate, and thus does not provide the motivation or teaching for using an outer shell filled with a separate confectionary to serve as a base as claimed by Applicant. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 7 for at least the aforementioned reasons.

The Office Action rejected Claims 9-13 under 35 USC 103 as being unpatentable over Honpo in view of Schroeder (US Pat. No. 4,560,562), Newsteder (US Pat. No. 4,778,683), and Swiss Colony Christmas Gift Book (1982) (hereinafter "Swiss") and further in view of Parents' Magazine (v. 67, n. 9, p. 161, 9/92 - "Ref. W<sup>2</sup>"), Wilton (1996 yearbook, p. 124 - Ref U3) ("Wilton"), Int'l New Product Report (15, 7/22/94, p. 11 - "Ref. W3"), Int'l New Product Report (22, 11/16/90, p. 16 - "Ref. X3"), CMM Confectionary Manufacture & Mkt (27, 11, 11/90, p. 16 - "Ref. U4") Nation's Business (v. 72, p. 49, 10/84 - "Ref. U"), Goman's New Product News (v. 28, n. 1, p. 18 - "Ref. W"), Int'l Product Alert (v. 17, n. 15, 8/7/2000 - "Ref. U2"), Int'l Product Alert (12/5/90 - "Ref V2") and Palm Beach Post (12/21/95, p. 1 FN - "Ref. X2"). Applicant respectfully traverses the rejection and the combination, modification and interpretation of the references, and asserts that the subject claims are unobvious and allowable.

It is well settled that "A plurality of claims should never be grouped together in a common rejection..." and that an omnibus rejection of the claims is inappropriate because it does not delineate the reasoning for the rejections and does not allow the Applicant to form a lucid response. MPEP 707.07(d). If Claims 9-13 are once again rejected, Applicant respectfully requests a reasoning for each rejection and specific citations therefor such that Applicant may form a response thereto. Nevertheless, Applicant respectfully traverses the rejection under the cited references and, as Applicant understands the rejection, asserts the patentability thereof as

follows:

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact, the references are individually complete and functional independently for each limited specific purpose and fail to suggest any motivation to modify or combine the same.

Hopno teaches a method of attaching a pre-molded chocolate decoration to a pre-molded chocolate bar using melted chocolate. Schroeder teaches a marshmallow sheet being placed onto a cake as decoration. (Schroeder, column 3, lines 13-26) Newstedcr teaches using a mold to attach chocolate decorations of varying colors to a slab of chocolate. (Newstedcr, column 2, lines 16-28; 32-40; and 43-51) Swiss teaches casting a chocolate bar using a mold and adding a personalization using melted chocolate and handwriting the same onto the chocolate slab. The references cited with respect to Claims 9-13 each teach a decorative confectionary, but not Applicant's combination thereof in the unobvious manner set forth in the subject claims and the claims from which they depend. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification as proposed by the Office and, in fact, the Office fails to cite any such motivation within any of the references.

In addition, the Office Action also appreciates the advantages of Applicant's invention and is using hindsight and Applicant's in order to modify and combine the references in an attempt to render Applicant's claims obvious. Applicant respectfully asserts that if the invention



were in fact obvious, because of the advantages it provides in attaching different display elements to various base confectionary, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in numerous references to achieve the claimed invention. Applicant respectfully submits that the fact that numerous references are necessary to be modified to purportedly render Applicant's invention obvious, militates in favor of Applicant because it proves that Applicant's invention produces new and unexpected results and hence is unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding Claim 9, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss and in view of the further references, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo cannot be modified as proposed by the Office Action because it requires the attachment of a chocolate base to a chocolate decoration via melted chocolate. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 9 for at least the aforementioned reasons.

Regarding **Claims 10-13**, which depends from amended Claim 1 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss and in view of the further references, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo cannot be modified as proposed by the Office Action because it requires the attachment of a chocolate base to a chocolate decoration via melted chocolate. In addition, the attachment means disclosed by Applicant is not contemplated by or disclosed in the references, specifically not Applicant's limitations set forth in Claim 13. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 10-13 for at least the aforementioned reasons.

The Office Action rejected **Claim 15** under 35 USC 103 as being unpatentable over Honpo in view of Schroeder (US Pat. No. 4,560,562), Newsteder (US Pat. No. 4,778,683), and Swiss Colony Christmas Gift Book (1982) (hereinafter "Swiss") and further in view of Applicant's purportedly admitted prior art. Applicant respectfully traverses the rejection and the combination, modification and interpretation of the references, and asserts that the subject claims are unobvious and allowable.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact, the references are individually complete and functional independently for each limited specific purpose and fail to suggest any motivation to modify or combine the same.

Hopno teaches a method of attaching a pre-molded chocolate decoration to a pre-molded chocolate bar using melted chocolate. Schroeder teaches a marshmallow sheet being placed onto a cake as decoration. (Schroeder, column 3, lines 13-26) Newsteder teaches using a mold to attach chocolate decorations of varying colors to a slab of chocolate. (Newsteder, column 2, lines 16-28; 32-40; and 43-51) Swiss teaches casting a chocolate bar using a mold and adding a personalization using melted chocolate and handwriting the same onto the chocolate slab. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification as proposed by the Office and, in fact, the Office fails to cite any such motivation within any of the references.

In addition, the Office Action also appreciates the advantages of Applicant's invention and is using hindsight and Applicant's in order to modify and combine the references in an attempt to render Applicant's claims obvious. Applicant respectfully asserts that if the invention were in fact obvious, because of the advantages it provides in attaching different display elements to various base confectionary, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in numerous references to achieve the claimed invention. Applicant respectfully submits that the fact that numerous references are necessary to be modified to purportedly render Applicant's invention obvious, militates in favor of Applicant because it proves that Applicant's invention produces new and unexpected results and hence is

unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding Claim 15, which depends from amended Claim 14 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Specifically, Honpo requires a chocolate base and a chocolate decoration to be combined with melted chocolate, limitations which teach away from Applicant's invention. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 15 for at least the aforementioned reasons.

The Office Action rejected Claims 18-20 under 35 USC 103 as being unpatentable over Honpo in view of Schroeder (US Pat. No. 4,560,562), Newsteder (US Pat. No. 4,778,683), and Swiss Colony Christmas Gift Book (1982) (hereinafter "Swiss") and further in view of Parents' Magazine (v. 67, n. 9, p. 161, 9/92 - "Ref. W<sup>2</sup>"), Wilton (1996 yearbook, p. 124 - Ref U3) ("Wilton"), Int'l New Product Report (15, 7/22/94, p. 11 - "Ref. W3"), Int'l New Product Report (22, 11/16/90, p. 16 - "Ref. X3"), CMM Confectionary Manufacture & Mkt (27, 11, 11/90, p. 16 - "Ref. U4") Nation's Business (v. 72, p. 49, 10/84 - "Ref. U"), Goman's New Product News (v. 28, n. 1, p. 18 - "Ref. W"), Int'l Product Alert (v. 17, n. 15, 8/7/2000 - "Ref. U2"), Int'l Product Alert (12/5/90 - "Ref V2") and Palm Beach Post (12/21/95, p. 1 FN - "Ref. X2"). Applicant respectfully traverses the rejection and the combination, modification and interpretation of the references, and asserts that the subject claims are unobvious and allowable.

It is well settled that "A plurality of claims should never be grouped together in a common rejection..." and that an omnibus rejection of the claims is inappropriate because it does not delineate the reasoning for the rejections and does not allow the Applicant to form a lucid response. MPEP 707.07(d). If Claims 18-20 are once again rejected, Applicant respectfully requests a reasoning for each rejection and specific citations therefor such that Applicant may form a response thereto. Nevertheless, Applicant respectfully traverses the rejection under the cited references and, as Applicant understands the rejection, asserts the patentability thereof as follows:

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact, the references are individually complete and functional independently for each limited specific purpose and fail to suggest any motivation to modify or combine the same.

Hopno teaches a method of attaching a pre-molded chocolate decoration to a pre-molded chocolate bar using melted chocolate. Schroeder teaches a marshmallow sheet being placed onto a cake as decoration. (Schroeder, column 3, lines 13-26) Newsteder teaches using a mold to attach chocolate decorations of varying colors to a slab of chocolate. (Newsteder, column 2, lines 16-28; 32-40; and 43-51) Swiss teaches casting a chocolate bar using a mold and adding a personalization using melted chocolate and handwriting the same onto the chocolate slab. The references cited with respect to Claims 18-20 each teach a decorative confectionary, but not

Applicant's combination thereof in the unobvious manner set forth in the subject claims and the claims from which they depend. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification as proposed by the Office and, in fact, the Office fails to cite any such motivation within any of the references.

In addition, the Office Action also appreciates the advantages of Applicant's invention and is using hindsight and Applicant's in order to modify and combine the references in an attempt to render Applicant's claims obvious. Applicant respectfully asserts that if the invention were in fact obvious, because of the advantages it provides in attaching different display elements to various base confectionary, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in numerous references to achieve the claimed invention. Applicant respectfully submits that the fact that numerous references are necessary to be modified to purportedly render Applicant's invention obvious, militates in favor of Applicant because it proves that Applicant's invention produces new and unexpected results and hence is unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding Claims 18-20, even if the modification were legally justified, it still would not

render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss and in view of the further references, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo cannot be modified as proposed by the Office Action because it requires the attachment of a chocolate base to a chocolate decoration via melted chocolate. In addition, the attachment means disclosed by Applicant is not contemplated by or disclosed in the references. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 18-20 for at least the aforementioned reasons.

The Office Action rejected Claims 16-17 under 35 USC 103 as being unpatentable over Honpo in view of Schroeder (US Pat. No. 4,560,562), Newsteder (US Pat. No.4,778,683), and Swiss Colony Christmas Gift Book (1982) (hereinafter "Swiss") and further in view of Parents' Magazine (v.67, n.9, p. 161, 9/92 – "Ref. W<sup>2</sup>"), Wilton (1996 yearbook, p. 124 – Ref U3) ("Wilton"), Int'l New Product Report (15, 7/22/94, p.11 – "Ref. W3"), Int'l New Product Report (22, 11/16/90, p.16 – "Ref. X3"), CMM Confection any Manufacture & Mkt (27, 11, 11/90, p. 16 – "Ref. U4") Nation's Business (v. 72, p. 49, 10/84 – "Ref. U"), Goman's New Product News (v. 28, n. 1, p. 18 – "Ref. W"), Int'l Product Alert (v. 17, n. 15, 8/7/2000 – "Ref. U2"), Int'l Product Alert (12/5/90 – "Ref V2") and Palm Beach Post (12/21/95, p. 1 FN – "Ref. X2"). Applicant respectfully traverses the rejection and the combination, modification and interpretation of the references, and asserts that the subject claims are unobvious and allowable.

It is well settled that "A plurality of claims should never be grouped together in a common rejection..." and that an omnibus rejection of the claims is inappropriate because it does not delineate the reasoning for the rejections and does not allow the Applicant to form a lucid

response. MPEP 707.07(d). If Claims 16-17 are once again rejected, Applicant respectfully requests a reasoning for each rejection and specific citations therefor such that Applicant may form a response thereto. Nevertheless, Applicant respectfully traverses the rejection under the cited references and, as Applicant understands the rejection, asserts the patentability thereof as follows:

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact, the references are individually complete and functional independently for each limited specific purpose and fail to suggest any motivation to modify or combine the same.

Hopno teaches a method of attaching a pre-molded chocolate decoration to a pre-molded chocolate bar using melted chocolate. Schroeder teaches a marshmallow sheet being placed onto a cake as decoration. (Schroeder, column 3, lines 13-26) Newsteder teaches using a mold to attach chocolate decorations of varying colors to a slab of chocolate. (Newsteder, column 2, lines 16-28; 32-40; and 43-51) Swiss teaches casting a chocolate bar using a mold and adding a personalization using melted chocolate and handwriting the same onto the chocolate slab. The references cited with respect to Claims 16-17 each teach a decorative confectionary, but not Applicant's combination thereof in the unobvious manner set forth in the subject claims and the claims from which they depend. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification as proposed by the Office and, in fact, the Office fails to cite any such motivation within any of the references.



In addition, the Office Action also appreciates the advantages of Applicant's invention and is using hindsight and Applicant's in order to modify and combine the references in an attempt to render Applicant's claims obvious. Applicant respectfully asserts that if the invention were in fact obvious, because of the advantages it provides in attaching different display elements to various base confectionary, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in numerous references to achieve the claimed invention. Applicant respectfully submits that the fact that numerous references are necessary to be modified to purportedly render Applicant's invention obvious, militates in favor of Applicant because it proves that Applicant's invention produces new and unexpected results and hence is unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding Claims 16-17, which depends from amended Claim 14 and incorporates the novel and unobvious limitations thereof, even if the modification were legally justified, it still would not render Applicant's invention obvious. As set forth in greater detail above and incorporated herein by reference, Honpo fails to teach all of the limitations of Applicant's invention, and the combination thereof with Schroeder, Newsteder and Swiss and in view of the further references, also fails to teach all of the limitations of Applicant's claimed invention or render the same obvious. Honpo cannot be modified as proposed by the Office Action because it

requires the attachment of a chocolate base to a chocolate decoration via melted chocolate. In addition, the attachment means disclosed by Applicant is not contemplated by or disclosed in the references. Therefore, Applicant respectfully requests withdrawal of the rejection of Claim 10-13 for at least the aforementioned reasons.

### **III. References Made of Record**

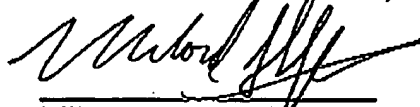
Applicants have reviewed the references made of record and respectfully assert that none of the references therein either anticipates Applicants' invention or renders the same obvious.

### **CONCLUSION**

It is respectfully submitted that the case is now in condition for allowance, and an early notification of the same is requested. If it is believed that a telephone interview will help further the prosecution of this case, Applicants respectfully request that the undersigned attorney be contacted at the listed telephone number.

Respectfully submitted,

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